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*Attorneys for Plaintiff*

14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE DISTRICT OF NEVADA**

16 IRMA WIDNER,

17 Plaintiff,

18 vs.

19 JOSEPH DARGER; EDGE TRANSPORTATION,  
20 LLC, a Kentucky Limited Liability Company;  
21 DOES I through X; and ROE BUSINESS  
ENTITIES I through X, inclusive,

22 Defendants.  
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Case No.: 2:19-cv-01607-APG-VCF

24 **JOINT PRE-TRIAL ORDER**

25 In compliance with LR 16-3 and LR 16-4 and the Order of the Court (ECF No. 52 and ECF  
26 No. 59), counsel for Plaintiff IRMA WIDNER ("Plaintiff") and Counsel for Defendants JOSEPH  
27 DARGER and EDGE TRANSPORTATION ("Defendants"), hereby submit the following Joint  
28 Pre-Trial Order in the above-referenced matter.

1 Following pretrial proceedings in this cause,

2 IT IS ORDERED:

3  
4 **I. NATURE OF ACTION, RELIEF SOUGHT AND IDENTIFICATION AND**  
5 **CONTENTIONS OF PARTIES**

6 This dispute arises from a motor vehicle accident that occurred in Las Vegas, Nevada, on  
7 June 20, 2017, when Ms. Widner was operating a 2008 Toyota Highlander and Defendant  
8 DARGER, within the course and scope of his employment with Defendant EDGE  
9 TRANSPORTATION, was operating a Kenworth Tractor owned by Defendant EDGE  
10 TRANSPORTATION.

11 Ms. Widner alleges that Defendant DARGER, while traveling directly behind her,  
12 negligently, carelessly and recklessly rear-ended her vehicle with the tractor, causing Ms. Widner  
13 to suffer serious injury. Defendants contend both Plaintiff and DARGER were both stopped at the  
14 red light at the intersection of waiting for the light to change when DARGER inadvertently took  
15 his foot off the brake pedal twice.

16 On March 9, 2021, the Court granted, Plaintiff's Motion to Strike Defendants' Answer.  
17 See ECF No. 52. The minutes of the proceedings read, in relevant part: IT IS ORDERED that  
18 ECF No. 46, Motion to Strike, and ECF No. 48 Motion for Default Judgment are GRANTED in  
19 PART.... Bench Trial on damages and some aspects of causation will be set..." *Id.*

20 **II. STATEMENT OF JURISDICTION**

21 This Court has jurisdiction over this matter pursuant to pursuant to Article III, Section 2 of  
22 the United States Constitution and 28 USC § 1332 based upon diversity as the amount in  
23 controversy exceeds \$75,000.00, as the Plaintiff is diverse from all Defendants in this matter.  
24 Plaintiff's Complaint identifies Plaintiff as a resident of Clark County Nevada, Defendant  
25 DARGER is a resident of Utah, and Defendant EDGE TRANSPORTATION, is a Domestic  
26 Limited Liability Company in the state of Utah, is not incorporated in Nevada and does not  
27 maintain a principal place of business in Nevada.

28 Venue is proper in this Court under 28 U.S.C., Section 1391.

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**III. FACTS ADMITTED BY PARTIES**

The following facts have been established and/or admitted as a function of the Court's Rule 37 findings and order: Defendants owed a duty to Ms. Widner and breached said duty.

**IV. FACTS NOT CONTESTED**

The following facts will not be contested at trial by evidence to the contrary: Defendants owed a duty to Ms. Widner and breached this duty.

**V. ISSUES OF FACT TO BE TRIED**

The following are the issues of fact to be tried and determined upon trial:

**A. Plaintiff's Issues of Fact:**

1. The type, nature and scope of Ms. Widner's injuries as a result of Defendants' breach;
2. The damages to Ms. Widner, including without limitation, the expenses of past medical treatment, past lost wages, past pain and suffering, the expenses of future medical treatment and future pain and suffering.

**B. Defendants' Issues of Fact:**

1. Causation of Plaintiff's alleged injuries;
2. Plaintiff's complaints of injuries, or some of the injuries alleged, were pre-existing in nature, and/or an aggravation of pre-existing injuries; and
3. Damages.

**VI. ISSUES OF LAW TO BE TRIED**

The following are the issues of law to be tried and determined upon trial:

**A. Plaintiff's Issues of Law:**

1. Rule 37's impact on Plaintiff's obligation to prove legal causation under the facts and circumstances of the instant dispute.

**B. Defendants' Issues of Law:**

1. Plaintiff's witness Dr. Gross should be limited in his testimony to that of non-retained treating physician.

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**V. EXHIBITS**

**A. Joint Exhibit List with Objections:**

The undersigned parties are continuing to refine their joint exhibit list to avoid duplication and to stipulate as feasible. A Joint Trial Exhibit List to be submitted on or before April 30, 2021.

**B. Stipulated Exhibits**

A Joint Trial Exhibit List to be submitted on or before April 30, 2021 and will include the parties' stipulations and objections.

To avoid the unnecessary duplication of identified exhibits, the parties agree that exhibits identified by one party, without waiving any objections as to admissibility, may be introduced by another party at the time of trial. All parties reserve the right to introduce additional exhibits at the time of trial for purposes of impeachment or rebuttal. The parties currently reserve any objections as to foundation and admissibility, but agree to continue conferring on the attached exhibit lists with the intent of identifying all exhibits that may be stipulated into evidence prior to the time of trial.

**C. Other Stipulated Exhibits**

None.

**D. Depositions:**

**1. Plaintiff will offer the following depositions:**

Deponent	Deposition Date	Page & Lines
Non-Appearance of Defendant Darger	07/16/2020	na
Non-Appearance of Defendant Darger	11/02/2020	na
Non-Appearance of PMK for Defendant Edge Transportation	07/01/2020	na
Non-Appearance of PMK for Defendant Edge Transportation	11/02/2020	na

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**2. Defendant will offer the following depositions:**

Deponent	Deposition Date	Page & Lines
Irma Widner	07/14/2020	
Hugh Selznick, MD	Attempting to coordinate a date for the doctor's deposition as he is not available to testify either of the available trial dates (in New York); have provided two deposition dates to Plaintiff's counsel	

**3. Plaintiff objects to Defendants' depositions as follows:**

- a. Renews objection under Rule 37; unable to take depositions of Defendants.
- b. Reserves right to object to pre-trial deposition of Hugh Selznick, MD.

**4. Defendant objects to Plaintiff's depositions as follows:**

- a. No objection, except for Custodians of Records' depositions. The only deposition taken was Plaintiff's.

Pursuant to FRCP Rule 32, the parties object to the admissibility of designated testimony to the extent that the deponent will be a witness at the time of trial.

**VII. WITNESSES**

The following witnesses may be called by the parties upon trial:

**A. Plaintiff's Witnesses:**

- 1. Plaintiff IRMA WIDNER  
c/o THE702FIRM INJURY ATTORNEYS  
400 South Seventh Street, Suite 400  
Las Vegas, NV 89101
- 2. MICHAEL WIDNER  
7524 Flowing Stream Drive  
Las Vegas, NV 89131
- 3. Jeffrey D. Gross, M.D. and/or  
Person Most Knowledgeable and/or Custodian of Records for  
SPINE 1661 W. Horizon Ridge Parkway, Suite 280  
Henderson, NV 89012

- 1           4.       EDNA HURST  
2                   7208 Eagle Crest Street  
3                   Las Vegas, NV 89131

4           **B.       Defendant's Witnesses**

- 5           1.       IRMA WIDNER  
6                   c/o Leila L. Hale, Esq.  
7                   c/o THE702FIRM INJURY ATTORNEYS  
8                   400 South Seventh Street, Suite 400  
9                   Las Vegas, NV 89101  
10  
11          2.       Hugh S. Selznick, M.D. – expert witness  
12                   Consultants Medical Group, LLC  
13                   2500 West Sahara Ave., Suite 207  
14                   Las Vegas, NV 89102  
15  
16          3.       David L. Ginsberg, M.D. – expert witness  
17                   851 S. Rampart Blvd.  
18                   Suite 115  
19                   Las Vegas, NV 89145

20                   In addition, should any party to this case withdraw the designation of a witness listed in this  
21                   Joint Pretrial Report, the parties reserve the right to re-designate the withdrawn witness.

22           **VIII.   TRIAL DATE**

23                   The parties have agreed and the Court has set trial for the dates of May 19, 2021 and May  
24                   20, 2021.

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1 **IX. LENGTH OF TRIAL**

2 It is estimated that the trial will take a total of 2 days.

3 **APPROVED AS TO FORM AND CONTENT**

4 Dated: April 21<sup>st</sup>, 2021

Dated: April 21<sup>st</sup>, 2021

5 **THE702FIRM INJURY ATTORNEYS**

**STEPHENSON & DICKINSON**

6 By: /s/ Janet L. Merrill

By: /s/ Marsha L. Stephenson

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10 Nevada Bar No. 8857

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JANET L. MERRILL, ESQ.

*Attorneys for Defendants*

11 Nevada Bar No. 10736

**DARGER and EDGE TRANSPORTATION**

12 400 S. 7th Street, Suite 400

Las Vegas, NV 89101

*Attorneys for Plaintiff*

13 **X. ACTION BY THE COURT**

14 (a) This case is set for bench trial/evidentiary hearing on May 19, 2021 and May 20,  
15 2021.

16 (b) An original and two (2) copies of each trial brief shall be submitted to the Clerk on  
17 or before May 14, 2021 \_\_\_\_\_.

18 (c) Bench trial:

19 (1) An original and two (2) copies of all instructions requested by either party  
20 shall be submitted to the Clerk for filing on or before N.A. \_\_\_\_\_.

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1 (d) Court trials:

2 Proposed finding of fact and conclusions of law shall be filed on or before  
3 May 14, 2021  
4 \_\_\_\_\_.

5 The foregoing pretrial order has been approved by the parties to this action as evidenced by  
6 the signatures of their counsel herein, and the order is hereby entered and will govern the trial of  
7 this case. This order shall not be amended except by order of the Court pursuant to an agreement  
8 of the parties or to prevent manifest injustice.

9 DATED: April 22  
10 \_\_\_\_\_, 2021.

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12 UNITED STATES MAGISTRATE JUDGE  
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